

United States District Court
Middle District of Tennessee

Rick Freeman
3040 Oasis Grand Blvd. Unit # 801
Fort Myers, FL 33916
770-778-4276
unimarketingent@msn.com
Defendant

**RECEIVED
IN CLERK'S OFFICE**

JAN 24 2017

**U.S. DISTRICT COURT
MID. DIST. TENN.**

Craig Cunningham
Plaintiff, Pro-se

V.

Civ Action 3:15-cv-00847

Enagic USA, Inc, et al
Defendants

OPPOSITION TO PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT

Rick Freeman, the defendant in this case opposes the motion for summary judgment, which was filed by Craig Cunningham, the plaintiff in this case.

My opposition is based upon and supported by the following Memorandum of Points and Authorities, the pleadings and papers on file with the Court, the attached declaration and exhibits, and any argument the Court may allow at the time of hearing.

MEMORANDUM OF POINTS AND AUTHORITIES

I oppose the motion on file with the Court for the following reasons and based upon the facts, law, and legal analysis below:

Rick Freeman denies making 13 calls and 2 text messages to the plaintiff due to network marketing nature of the calls, products, and services as wrongfully accused. Rick Freeman denies network marketing calls, product, and services of any nature to the plaintiff. Rick Freeman did not intend to gain had the Plaintiff purchased the products or services, Rick Freeman denies working in concert to sell the products and services using robocalls. Rick Freeman denies calling the Plaintiff directly multiple times using an automated telephone dialing system and pre recorded message to the Plaintiff's cell phone. Rick Freeman denies contacted the Plaintiff in any way regarding a variety of get-rich-quick pyramid schemes, such as "cash gifting" type of pyramid scheme, and another named Enagic. Rick Freeman denies making unsolicited text messages deemed as "Calls" under the TCPA, Rick Freeman denies any

entitlement to the Plaintiff for summary of judgment in his favor. Rick Freeman denies violating the TCPA a total of 140 times for any documented calls and text messages. Rick Freeman denies having violated 47 USC 227 (b) for using pre-recorded message and being initiated with an automated telephone dialing system. Rick Freeman denies any entitlement to the Plaintiff to recover \$1500 per call, Rick Freeman never participated in contacting the Plaintiff via cell phone or text messaging of any kind. Rick Freeman denies violating 47 USC 227 © (5) as codified under 47 CFR 64.1200 (d) as Rick Freeman never contacted the Plaintiff, therefore, Rick Freeman did not fail to have an internal do not call list, he did not fail to state the name of the person or entity placing the call, he did not fail to train their agents/employees on the use of an internal do not call list. The Plaintiff is not entitled to an additional \$1500 per call. Rick Freeman denies any willful violation of the TCPA where the "violator knew that he was doing the act in question," which does not entitle the Plaintiff to treble damages. Rick Freeman denies any cell phone calls and or text messages to the Plaintiff, therefore, the Plaintiff is not entitled to recover \$3,000 per call or \$420,000 jointly and severally from Rick Freeman. Rick Freeman denies all allegations and arguments made by the Plaintiff. Rick Freeman has never contacted the Plaintiff via cell phone and has never participated in any of the alleged allegations by the Plaintiff.


For the reasons stated above, the Court should deny the pending motion.

Dated this 17th day of January, 2017.

I declare under penalty of perjury under the law of the State of Tennessee that the foregoing is true and correct.



Signature



Print Name

Defendant

Rick Freeman
3040 Oasis Grand Blvd.
Unit # 801
Ft. Myers, FL 33916



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37203

U.S. POSTAGE
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33907
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JAN 24 2017

U.S. DISTRICT COURT
MID. DIST. TENN.

U.S. District Court
Middle District of TN
801 Broadway Room 800
Nashville, TN 37203



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